IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.570 OF 2004
IN
NOTICE OF MOTION NO.26 OF 2002
IN
SUIT NO.4474 OF 2001

Cable Corporation of India Ltd. — Appellant
vs.
ICICI Limited (Debenture Trustees) — Respondent

Mr.Makrand Narvekar i/b.M/s.Khaitan & Jaykar for the appellant.

Mr.Birendra Saraf i/b. M/s.M.K.Ambalal & Co. for the respondent.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 18th July 2005

P.C.

Heard Mr.Makrand Narvekar, the learned counsel for the appellant-defendant and Mr.Birendra Saraf, the learned counsel for the respondent-plaintiff.

2. At the outset, we may observe that the learned counsel for the appellant-defendant submitted that reply in opposition to the notice of motion was in fact filed and the learned motion Judge was not right in observing that no reply has been filed by the defendant. The learned counsel for the plaintiff is not able to say anything in this regard.

3. It is not in dispute that despite the ad-interim order dated 24th January 2002 directing the Court Receiver to appoint the appellant-defendant as its agent, the appellant-defendant did not show any inclination in that regard. In this view of the matter, the order of the learned motion Judge confirming the appointment of Court Receiver until disposal of suit and direction to him to take physical possession of the subject property cannot be said to suffer from any legal infirmity. The learned motion Judge has already directed the Court Receiver in the impugned order that the plaintiff may be appointed as the agent of the Court Receiver on usual terms and conditions except royalty and security. We do not find any error in that regard in the facts and circumstances of the present case.

4. No case for interference in the impugned order is made out.

5. The learned counsel for the appellant, however, submitted that the appellant-defendant seeks to have some agreed arrangement with the respondent-plaintiff. As and when the parties are able to agree to some arrangement necessitating the modification of the order dated 29th July 2004, they are at liberty to apply to the learned motion Judge for appropriate

direction/order.

6. With the aforesaid observation, the appeal is dismissed in limine.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)